

EXHIBIT B

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
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In the Matter of Alleged Violations of
Article 12 of the New York State Navigation
Law, Article 17 of the New York State
Environmental Conservation Law, and Title 6,
Parts 611 to 614, 702 and 703, and Title 17, Part
32 of the New York Codes, Rules and
Regulations,

VEHICLE REFUELING
FACILITY ORDER ON
CONSENT

DEC File No.
R2-0015-93-04

- by -

THE CITY OF NEW YORK,

Respondent.
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WHEREAS

I. PARTIES

1. The New York State Department of Environmental Conservation ("DEC") is a Department of the State of New York authorized to prevent and abate the pollution of the waters of the state caused by petroleum discharges, pursuant to Articles 3 and 17 of the Environmental Conservation Law ("ECL") and Parts 611 - 614, 702 and 703 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR").

2. DEC is also authorized to regulate the storage, handling, and transport of petroleum, and to enforce the containment and remediation of petroleum spills and discharges, in the State of New York, pursuant to Article 12 of the Navigation Law, Part 32 of Title 17 of the Official Compilation of Codes, Rules and

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VI. VIOLATIONS OF STATUTORY PROVISIONS AT THE FACILITIES

a. Tank Tightness Testing Violations

26. The City failed, prior to December 27, 1987, to test approximately 1048 underground petroleum storage tanks for tightness at 397 facilities that are under its responsibility, as required by 6 NYCRR 613.5. At present, approximately 869 tanks at 314 facilities remain to be tested (see Schedule A for a list of these remaining violations).

27. Because of the City's failure to accomplish such testing in a timely manner, DEC and the City are generally unable to determine whether particular tanks that were not tested had leaked and whether remedial measures are necessary to contain, clean up and remove any petroleum that had been spilled.

b. Illegal Discharge of Petroleum

28. DEC investigation and review of documented spill reports demonstrate that the City is responsible for at least 63 illegal motor fuel and motor oil discharges (see Schedule B for a list of these violations). These documented illegal discharges may have resulted in contravention of groundwater and soil standards at in and around the properties owned by the City of New York and used as City's motor vehicle refueling stations, and any such contravention may continue as of the date of this Order.

29. As a result, at least from the date of each documented illegal motor fuel and motor oil discharges, the City has violated:

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ECL §17-0501, ECL §17-0503, ECL §17-0807, ECL §17-1743, NL §173, NL §175, and NL §176.

c. Petroleum Bulk Storage Registration & Other Violations

30. The City has failed to timely register, or renew its registration, of 111 motor fuel bulk storage tanks with a combined capacity of over 1,100 gallons, at 80 facilities, as required by ECL §17-1009 and 6 NYCRR 612.2. These tanks and facilities, some of which remain unregistered, are listed at Schedule C.

31. The City has an additional group of motor fuel bulk storage facilities that may be in violation of one or more of the following requirements: (1) color coding of fill ports according to the color and symbol code of the American Petroleum Institute, (2) maintenance of daily inventory record of each tanks for the purpose of detecting leaks, (3) displaying of DEC's PBS registration certificate, (4) equipping remote motor fuel pumping stations with a shear valve (impact valve), and (5) safeguarding tanks located in flood plains against buoyancy and lateral movements. As a result, the City must make an assessment of all of its 491 motor fuel bulk storage facilities to determine whether any violations of these five regulations exist at these sites.

V. THE REMEDIES REQUIRED UNDER THIS ORDER

32. The City intends to permanently close and substantially modify many of its motor vehicle refueling stations through a site

State 10 day
perm reconciliation
City 30 day ✓

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consolidation program (the "Consolidation"). In order to provide DEC with a correct account of all permanent closing and substantial modifications that will result from the Consolidation, the City will report all of above said changes in all of its motor fuel bulk storage facilities.

33. As stated above, the City has an outstanding number of motor fuel bulk storage tanks that were not precision tested. In order to determine whether each motor fuel bulk storage tanks can be safely operated without future leakage and whether it has leaked petroleum in the past, the City must test all of its motor fuel bulk storage tanks, listed in Schedule A, for tightness. The City shall submit a proposed schedule for tank testing of the City's UST inventory.

34. Furthermore, in order to determine whether each documented spill site listed in Schedule B requires further investigation or remedial action, the City will submit a proposed Schedule detailing site specific investigation plans, and will perform all necessary investigations and remediations at these sites.

35. As stated above, there are an undetermined number of motor fuel bulk storage facilities that may be in violation of the following spill prevention requirements: (1) color code all fill ports according to the color and symbol code of the American Petroleum Institute, (2) keep daily inventory record of each tanks for the propose of detecting leaks, (3) display DEC's PBS